IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLN.NO.6663 OF 2005
IN
CRI.APPEAL NO. OF 2005

The State of Maharashtra ..Applicant
Vs.
Prabhakar Vishnu Satvi
residing at Siddheshwar lake,
Gawari Chawl, Khopat,
Thane. ..Respondent

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Mr.V.B.Konde-Deshmukh APP for the Applicant-State
Mr.B.G.Tangsali Adv. for Respondent

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**CORAM: SMT.V.K.TAHILRAMANI,J.**
**DATE : OCTOBER 22, 2007**

**P.C.**

1. Heard the learned APP for the Applicant-State and the learned advocate for the Respondent-Accused.

2. The applicant has preferred this application for leave to file appeal against the judgment and order passed by the learned Special Judge, (Anti-Corruption), Thane in Special Case No.13 of 2003. By the said judgment and order, the learned Special Judge discharged the Respondent-accused of the offence under Section 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

3. I have heard the learned APP for the Applicant-State and the learned Advocate for the Respondent-accused. I have perused the judgment and order as well as the evidence which has been produced by the learned APP. On going through the same, it is seen that the learned Special Judge has discharged the Respondent-accused on the ground of defect in the order granting sanction to prosecute the Respondent. Sanction was granted by P.W.4 Shri.Patange, who at the relevant time, was District Treasury Officer, Thane. The District Treasury Officer was the appointing and removing authority of the clerical staff. The Respondent was working as clerk in the Treasury Office, Thane. The case against him is that he demanded illegal gratification of Rs.300/- for passing the bill of the arrears of the complainant relating to Vth Pay Commission. The evidence of witness Mr.Patange shows that he had simply filled up the blanks in the draft sanction order, signed the same, put the official seal and sent it back to the ACB office to be used as sanction order. He has admitted in his evidence that the sanction order (Exhibit-P/10) which was signed by him, is a computer print out

which was supplied to him by the Anti-Corruption Bureau. Moreover, it is seen that in the sanction order, it is not mentioned anywhere that he was satisfied that there was a prima facie case to grant sanction. No such satisfaction is mentioned in the order or the grounds.

4. It is well settled legal position that the sanctioning authority has to apply its mind to the facts of the case. In the present case, it appears that the same was not done. The learned Special Judge has discharged the Respondent-accused on the ground of lacunae in the sanction including one mentioned above. In my opinion, the view taken by the learned Special Judge is a reasonable and possible view.

5. If the view taken by the learned Special Judge, could have been reasonably arrived at then the mere circumstance that the appellate Court would have taken a different view, would be no ground to interfere.

6. In this view of the matter, application for leave to appeal is rejected.

[SMT.V.K.TAHILRAMANI, J.]